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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,930	11/15/2001	Rene Weber	ME-44	5118
7590	04/26/2004		EXAMINER	
Friedrich Kueffner Suite 910 317 Madison Avenue New York, NY 10017			GIBSON, RANDY W	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/002,930	WEBER, RENE
Examiner	Art Unit	
Randy W. Gibson	2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 March 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-51 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 12-51 is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 15 November 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 29, 2004 have been fully considered but they are not persuasive. The applicant states that "[t]he load receiver carrier of Montgomery is specifically designed for preventing slipping of the tray. There is no disclosure of a load receiver as in the present invention which has an arrangement of arms that is designed to support weights of varying size and form, and to center the weights on the load receiver." The examiner notes that none of these recited features actually appear in the rejected claims as worded. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Besides, it seems self-evident that any item placed in the pan of Montgomery will inherently roll toward the center since the center of the pan is obviously the lowest point (this technique of sloping a weigh pan so that items to be weighed center themselves on a scale pan, in order to prevent bending moments from an off-center (*I.E.*: eccentric) load on the pan causing an inaccurate weight measurement, is a technique dating back to ancient times in an attempt to correct the effects of variable lever arm length on the apparent force felt at a fulcrum -- a self-centering load will always place itself at the same point at the same distance from the scale fulcrum (by sliding downhill), regardless of how careless the scale operator tosses items into the scale pan^{1,2}).

1. "Other factors affecting the performance of single pan balances are ... eccentricity (a difference in reading arising from placing the load toward one side of the pan, rather than centrally) [emphasis in the

Regarding Wright, the applicant states that "Wright does not disclose a load receiver, but instead a load receiver carrier ... As stated in lines 55-59 of Wright, the item to be weighed is not weighed directly on the load receiver carrier. Wright provides no disclosure of a load receiver as in the present invention which has an arrangement of arms that is designed to support weights of varying size and form, and to center the weights...". once again, the examiner notes that the rejected claims do not specify that the item to be weighed is placed directly on the carrier. Also, it seems self evident that any item placed in the pan of Wright will inherently roll toward the center since the center of the pan is obviously the lowest point.

With regards to the Sheetz patent, the applicant states:

"The patent to Sheetz discloses an adjustable spring-balanced scale. Sheetz does not disclose a load receiver constructed of an arm arrangement, as in the present invention. Instead, in Fig. 1, Sheetz discloses a closed pocket-shaped load receiver 12 with a depression for holding fruit to be weighed. Furthermore, Sheetz does not disclose an arm arrangement that has a first depression

original]." *Wiley Encyclopedia of Electrical & Electronics Engineering*, Vol. 23, John G. Webster, Ed., University of Wisconsin-Madison, John Wiley & Sons, New York, NY, © 1999, p. 572.

2. "The mass of the unknown sample is compared to the mass of the known standard on different lever arms. One lever arm only 1/100,000 longer than the other will create an error of 1/100,000 of the weight applied. With a load of 100 g, this error amounts to 1 mg. If the two lever arms are absolutely equal in length, this problem does not exist." *McGraw-Hill Encyclopedia of Science and Technology*, Vol. 2, New York, NY, © 1977, p. 74.

sloped at a variable first slope angle towards a mid-point of the load receiver, as in the presently claimed invention."

This argument completely fails to address any of the examiner's remarks about the Sheetz reference made in the rejection and is therefore unpersuasive. Since all of the applicant's remarks can be rebutted by simply pointing to the original rejection, no further comment is deemed necessary.

With regards to the applicant's remarks concerning Tas, the examiner notes that the weight placement device is the conveyor 1 with rollers 2. The load receiver is element 10. However, since applicant has amended independent claims 12, 26 & 31 have been amended to include the subject matter that the examiner had previously indicated as allowable, these claims are allowable.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Montgomery (US # 186,149). Montgomery discloses the claimed invention including a balance with an arrangement of arms (a) which bend in the lateral direction (b), and a load receiver (A) which slopes toward a depression in the middle (Fig.1).

4. Claims 1, 4, 6-9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright (US # 1,080,398). Wright discloses the claimed invention including a balance with an arrangement of arms (f), a load receiver (c) which slopes toward a depression in the middle (Fig.s 1-3), and a freely suspended load receiver frame (a).

5. Claims 1-3 and are rejected under 35 U.S.C. 102(b) as being anticipated by Sheetz (US # 3,092,196). Sheetz discloses the claimed invention including a load receiver (12) which slopes toward a depression (36) in the middle in a stepped slope (Fig. 1) and which is supported by an arrangement of arms (34,37).

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montgomery (US # 186,149). Montgomery discloses the claimed invention, as discussed above, except for the load receiver (A) appears to be made from metal instead of plastic. However, the examiner took official notice in the last office action that plastic was a well known material, that it was known to make scoops and scale pans from plastic, and therefore it would have been obvious to the ordinary practitioner to make the load receiver of Montgomery from plastic based on its known suitability for its intended use. See MPEP §§ 2144.06 & 2144.07.

Conclusion

8. Claims 12-51 are allowable over the art of record.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Randy W. Gibson
Primary Examiner
Art Unit 2841